FILED

JUN 17 2010

STATE ENGINEER'S OFFICE

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 79783
FILED BY AMARGOSA VALLEY SOLAR I, LLC
TO APPROPRIATE THE PUBLIC WATERS OF
THE STATE OF NEVADA

PROTEST

Comes now William Hansen, on behalf of the United States Department of the Interior, National Park Service, whose post office address is 1201 Oak Ridge Drive, Suite 250, Fort Collins, Colorado, 80525, whose occupation is Acting Chief, Water Rights Branch, Water Resources Division, National Park Service, and protests the granting of Application 79699 for the following reasons and on the following grounds, to wit:

See Exhibit A attached.

THEREFORE the protestant requests that the application be denied.

Signed: Wm R. Hansen
Agent or protestant

Printed or typed name, if agent

Address: 1201 Oak Ridge Dr., Suite 250
Street No. or P.O. Box No.

Fort Collins, CO 80525
City, State and Zip Code No.

FLORA B. ROMERO NOTARY PUBLIC STATE OF COLORADO

Subscribed and sworn to before me this 16th day of June, 2010.

Flora B. Romero
Notary Public

State of Colorado
County of Larimer

My Commission expires Flora B. Romero, Notary Public
State of Colorado
My Commission Expires 7/31/2010

RECEIVED
2010 JUN 17 AM 10:28
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATIONS 79699 and 79783

EXHIBIT A

Protest by William Hansen, on behalf of
the United States Department of the Interior,
National Park Service

I. The proposed appropriation is located within the Amargosa Desert hydrographic basin, which is part of the Death Valley regional flow system (Harrill, et al., 1988).

II. In 1979, the Nevada State Engineer (NSE) designated the Amargosa Desert hydrographic basin as a basin coming under the provisions of Chapter 534 NRS. Additional management considerations are warranted in a designated basin.

III. Application 79699 seeks to change the place of use and manner of use of 1.75 cfs, not to exceed 400 acre-ft per year, of a portion of water previously appropriated under Permit 15893.

IV. The amount of water appropriated under Permit 15893 will be reduced to 203 acre-ft per year for irrigation purposes.

V. Application 79783 seeks to appropriate 2.0 cfs, not to exceed 400 acre-ft per year. The "Remarks" section of the application states that the water appropriated under this application will be used as the primary water supply, while water appropriated under 79699 will be the back-up water supply, but at no time will more than 400 acre-ft per year be used from the groundwater reservoir.

VI. The point of diversion for Permit 15893 and Application 79699 is the same well, which is located about 11 miles from Devils Hole.

VII. The proposed use for 79699 and 79783 is for industrial use at a concentrating solar power plant.

VIII. Item #16 under Application 79699 states that water may be temporarily used for irrigation while the power plants are being constructed. A water right is granted for a specific manner of use at a specific place of use from a specific point of diversion. The owner of a water right cannot decide to change the manner of use without proper notification and approval.

IX. The statement that water may be used temporarily for irrigation is in contradiction to the stated water needs of the solar facility. The draft EIS for the solar facility states that a total of 600 acre-ft per year may be required during the construction period. Therefore, additional water is likely to be required during construction, not less.

X. An analysis of the effects of existing groundwater withdrawals in the Amargosa Desert were submitted with the draft EIS for the solar facility by the applicant. The applicant used the Death Valley Regional flow model to evaluate the effects of pumping. The analysis shows that the cumulative effect of existing groundwater withdrawals, which includes withdrawals under Permit 15893, will cause the water levels to decline at Devils Hole.

XI. The use of water from one point of diversion for two different permits and manner of use should require two different meters to measure the amount of water used under each permit.

XII. The State Engineer has stated that in the Amargosa Desert:

a. Existing water rights exceed the perennial yield, and only 7,000 acre-ft per year is available for development by wells (Ruling 5992).

b. Additional regulation of the resource may be considered for water right applications that request changes in existing water rights (Ruling 5902).

XIII. The NPS requests that these applications be denied unless the following requirements are met:

a. The well associated with Permit 15893 must have a meter dedicated to measuring irrigation use.
b. The same well used under Permit 15893 must have a separate meter dedicated to measuring industrial water use under Permit 79699.
c. The well associated with Permit 79783 is considered supplemental to 79699 and must have a meter dedicated to measuring industrial water use under Permit 79783.
d. Monthly totals of water use from each individual meter must be submitted to the Nevada State Engineer.
e. The use of water under these applications is intended for industrial purposes at a solar facility and cannot be used for irrigation during the lease period.

XIV. In addition to the above conditions, the applicant must demonstrate that the groundwater withdrawals sought by these applications, when combined with existing groundwater withdrawals, will not contribute to a decline of water levels at Devils Hole. The NPS requests that the applications be held in abeyance until such time as the applicant has obtained and retired sufficient existing groundwater rights to offset the effects of the proposed groundwater withdrawals on Devils Hole.

The NPS reserves the right to amend this exhibit as more information becomes available.